

RESOLUTION NO. 2008-182

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING  
THE CITY MANAGER TO EXECUTE A 'WAIVER OF 90-DAY  
HEARING REQUIREMENT FOR ADMINISTRATIVE CIVIL LIABILITY  
COMPLAINT' FOR THE PURPOSE OF REMITTING PAYMENT FOR  
THE CIVIL LIABILITY OF \$21,000 TO THE CALIFORNIA REGIONAL  
WATER QUALITY CONTROL BOARD FOR ALLEGED DISCHARGE  
VIOLATIONS AND FURTHER APPROPRIATING FUNDS

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WHEREAS, the California Water Code Section 13385 allows the California Regional Water Quality Control Board (Board) to impose administrative civil liabilities (fines) for each discharge violation that qualified for a Mandatory Minimum Penalty (MMP); and

WHEREAS, the current MMP for both serious and non-serious violations is \$3,000 per occurrence; and

WHEREAS, on May 19, 2008, the City of Lodi received a draft Administrative Civil Liability Complaint (ACLC) from the Board outlining alleged MMPs for 53 non-serious discharge violations totaling \$159,000, which occurred over the eight-year period between January 1, 2000 and December 31, 2007 and

WHEREAS, the City's wastewater consultants (West Yost & Associates), along with legal counsel (Somach, Simmons and Dunn), assisted staff in preparing a June 16, 2008, response to the Board that outlined the City's position and contended only 2 of the 53 violations (\$6,000) qualified as MMPs; and

WHEREAS, upon review of the City's June 16, 2008, response, the Board agreed to reduce the MMPs from \$159,000 to \$21,000 and issued ACLC No. R5-2008-0562; and

WHEREAS, staff believes we have reached a point of diminishing returns in negotiating the fine and the costs of engaging Board staff.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a 'Waiver of 90-Day Hearing Requirement for Administrative Civil Liability Complaint' to waive the Board hearing requirement in accordance with the terms of Item No. 4 and remit payment for the reduced civil liability of \$21,000 for alleged discharge violations occurring between January 1, 2000 and December 31, 2007 and

BE IT FURTHER RESOLVED that funds in the amount of \$21,000 be appropriated from the Wastewater Fund for this payment.

Dated: September 3, 2008

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I hereby certify that Resolution No. 2008-182 was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 3, 2008, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Johnson, Katzakian,  
and Mayor Mounce

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



RANDI JOHL  
City Clerk